IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Tr.P(C).No. 176 of 2006()

OP.1080/2005 of FAMILY COURT,THRISSUR

.....

: PETITIONER

SHAJI ALIAS SAJEEVAN, S/O.BERNARD,
AGED 39 YEARS, BUSINESS, NAISSERY HOUSE,
THOTTAKKATTUKARA, ALUVA.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

SILVI, W/O.SHAJI, C/O.JAMES KOTTACKKAL,
KOTTACKKAL HOUSE, NEAR WEST CHURCH, ANGAMALY.

BY ADV. SMT.K.GIRIJA

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.Sasidharan Nambiar,J.

Tr.P(C).Nos.176 & 182 of 2006

Dated this the 27th day of November,2006

O.R.D.E.R

Petitioner in Tr.P(C) 182/06 is the wife and petitioner in Tr.P(C) 176/06 is the husband. They are respectively respondent in the other case. The wife filed O.P.1080/05 before Family Court, Thrissur seeking custody of the child. She also filed M.C.312/05 claiming maintenance. The husband filed O.P.738/06 for restitution of conjugal rights. He also filed O.P.923/06 a petition for appointing himself as guardian of the child. These cases are filed before the Family Court, Ernakulam. In Tr.P(C) 176/06 the husband seek transfer of O.P.1080/05 from Family Court, Thrissur to Family Court, Ernakulam contending that that case is to be heard along with the other cases at Family Court, Ernakulam. The wife filed Tr.P(C) 182/06 seeking transfer of the other two cases contending that she is residing at Chalakkudy and

all the cases are to be heard by the same Family Court and it is difficult for her to travel to Ernakulam and contest the case.

2. Learned counsel appearing for the petitioner and respondent were heard.

3. On hearing the counsel it is clear that all the cases are to be disposed by one Family Court. The question is which Family Court is to be preferred? When husband and wife seek transfer of the case, preference has to be given to the wife. The argument of learned counsel appearing for respondent is that the child is at Angamaly and distance from Angamaly is nearer to Ernakulam than Thrissur and therefore case is to be transferred to Ernakulam. The case of the wife is that she is not residing at Angamaly, but Chalakkudy which is nearer to Thrissur. It is also pointed out that eventhough M.C.312/05 is pending before the Family Court, Thrissur no attempt was made to get it transferred to Ernakulam and therefore all the cases are to be tried by Family court, Thrissur. As

the convenience of the wife is to be preferred and wife and the child are residing within the jurisdiction of Family Court, Thrissur,O.P. 738/06 and 923/06 on the file of Family Court, Ernakulam are withdrawn and transferred to Family Court, Thrissur for disposal in accordance with law.

Petitions are disposed as above.

M.Sasidharan Nambiar
Judge

tpl/-

M.SASIDHARAN NAMBIAR, J.

CRL.R.P.NO. /97

ORDER

MARCH,2006